

EJ BAY PLAN AMENDMENT: PUBLIC COMMENT AND DRAFT CHANGES

CLESI BENNETT

EJ COMMISSIONER WORKING GROUP

SEPTEMBER 5, 2019

TIMELINE

- **September 5:** EJCWG meeting to discuss public comments and draft changes
- **October 3:** EJCWG meeting to discuss implementation and next steps
- **October 11:** final day to publish final staff recommendation (ideally earlier)
- **October 17:** Commission vote

PUBLIC COMMENTERS

- Lenny Siegel (former Mountain View mayor)
- Richardson's Bay Regional Agency
- Committee for Green Foothills
- Port of San Francisco
- San Francisco Estuary Partnership
- EJ Review Team (Greenaction for Health and Environmental Justice, Breakthrough Communities, Shore Up Marin City, Nuestra Casa, EcoEquity)
- Bay Area Council, Bay Planning Coalition, Building Industry Assn., East Bay Leadership Council, North Bay Leadership Council, and San Mateo County Economic Development Assn.
- Alameda County staff
- Marin County staff
- City of Albany staff

PUBLIC COMMENT TYPES

- Finding and policy-specific comments
- General comments
- Comments on topics outside the scope of this amendment

SLIDE LAYOUT

- May 31, 2019 proposed finding and policy language
- Comments
- Staff preference in red (not final)

EJ/SE FINDING K

5/31 version: EJ/SE finding k – Equitable and culturally-relevant community outreach and engagement is at the heart of environmental justice and necessary for meaningful involvement. Many public processes are currently not accessible to all, as there are barriers to participation for low-income people, working people, parents and guardians, people of color, people that have limited English language skills, people with disabilities, people with limited transportation options, and others. Meaningfully involving underrepresented communities may require additional and more targeted efforts, such as equitable and culturally-relevant outreach and engagement. Consistent community outreach and engagement from the start of a project and throughout project design, permitting, and construction are necessary for addressing environmental justice and social equity. If outreach and engagement are indeed conducted from the onset of the project, much of this would, and should, occur during the local government’s discretionary approval process prior to the Commission’s involvement.

Comments: Add a reference to the IAP2 participation spectrum.

EJ/SE POLICY 2

5/31 version: EJ/SE Policy 2 – Since addressing issues of environmental justice and social equity should begin as early as possible in the project planning process, the Commission should support, encourage, and expect local governments to include environmental justice and social equity in their general plans, zoning ordinances, and in their discretionary approval processes. Additionally, the Commission should be a leader in collaborating transparently with other agencies on issues related to environmental justice and social equity that fall outside of the Commission’s authority or jurisdiction.

Comments: Since addressing issues of environmental justice and social equity should begin as early as possible in the project planning process, the Commission should support, and encourage, ~~and expect~~ local governments to include environmental justice and social equity in their general plans, zoning ordinances, and in their discretionary approval processes. ~~Additionally, the Commission should be a leader in collaborating transparently with other agencies on issues related to environmental justice and social equity that fall outside of the Commission’s authority or jurisdiction.~~

Staff preference: Since addressing issues of environmental justice and social equity should begin as early as possible in the project planning process, the Commission should support, encourage, and ~~expect~~ advocate for local governments to include environmental justice and social equity in their general plans, zoning ordinances, and in their discretionary approval processes. Additionally, the Commission should be a leader in collaborating transparently with other agencies on issues related to environmental justice and social equity that ~~fall outside of~~ affect the Commission’s authority or jurisdiction.

EJ/SE POLICY 3

5/31 version: EJ/SE Policy 3 – Local governments and project applicants should be encouraged and expected to conduct equitable, culturally-relevant community outreach and engagement to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in identified vulnerable or disadvantaged communities, and such outreach and engagement should continue throughout the Commission review and permitting processes. Evidence of how community concerns were addressed should be provided. If previous outreach and engagement were insufficient, further outreach and engagement should be conducted prior to Commission action.

Comments:

Local governments and project applicants are ~~should be~~ encouraged and ~~expected~~ to conduct equitable, culturally-relevant community outreach and engagement to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in identified vulnerable or disadvantaged communities, and ~~such outreach and engagement should continue throughout the Commission review and permitting processes.~~ Evidence of how community concerns were addressed should be provided. ~~If previous outreach and engagement were insufficient, further outreach and engagement should be conducted prior to Commission action.~~

EJ/SE POLICY 3 (CONTINUED)

Staff Preference:

- Equitable, culturally-relevant community outreach and engagement to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in identified vulnerable or disadvantaged communities should be conducted by local governments and project applicants. Such outreach and engagement should continue throughout the Commission review and permitting processes. If previous outreach and engagement efforts ~~were insufficient~~ did not reflect the scale or scope of the project, further outreach and engagement should be conducted prior to Commission action. (change in all other places)

EJ/SE POLICY 4

5/31 version: EJ/SE Policy 4 – If a project is proposed within an identified vulnerable or disadvantaged community, potential disproportionate burdens from projects should be identified with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to avoid, minimize, and/or compensate for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the project is proposed.

Comments:

If a project is proposed within an identified vulnerable or disadvantaged community, potential disproportionate ~~burdens from projects~~ impacts on shoreline public access should be identified with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to avoid, and/or minimize, ~~and/or compensate for disproportionate adverse project~~ such impacts on the identified vulnerable or disadvantaged communities in which the project is proposed.

Staff Preference:

If a project is proposed within an identified vulnerable or disadvantaged community, potential disproportionate ~~burdens~~ impacts from projects should be identified with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to avoid, minimize, and/or compensate for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the project is proposed.

PUBLIC ACCESS FINDING C

5/31 version: Public Access Finding c – Public access required by the Commission is an integral component of development and usually consists of pedestrian and other nonmotorized access to and along the shoreline of San Francisco Bay. By its nature, public access is free and available to all users. It may include certain improvements, such as paving, landscaping, street furniture, restrooms, and drinking fountains; and it may allow for additional uses, such as bicycling, fishing, picnicking, nature education, etc. Visual access to the Bay is a critical part of public access. Public access spaces can promote local cultural identity through non-physical aspects of Bay access, such as educational, cultural, civic, and health and wellness, or other activities. In projects that cannot provide onsite public access due to safety or use conflicts, including significant adverse effects on wildlife, in lieu public access may be appropriate.

Comments:

- [...]By its nature, public access is ~~free and~~ available to all users. [...]Public access spaces can promote local cultural identity through non-physical aspects of Bay access, such as but not limited to educational, cultural, civic, and health and wellness, or other activities. [...]
- At the end, **add:** “Urban waterfront public access areas have unique characteristics that can foster diverse social interactions and strengthen community bonds through gatherings and group activities that enliven public access areas. These areas are available to a broader diversity of populations than nature and shoreline areas located more remotely from population centers.”

PUBLIC ACCESS FINDING C (CONTINUED)

Staff Preference:

[...] ~~By its nature~~ In general, ~~public access to the Bay by the public~~ is free and available to all users. It may include certain improvements, such as paving, landscaping, street furniture, restrooms, and drinking fountains; and it may allow for ~~additional~~ uses, such as bicycling, fishing, picnicking, nature education, public programming that activates the shoreline, etc. Visual access to the Bay is a critical part of public access. Public access spaces can promote local cultural identity through non-physical aspects of Bay access, such as educational, cultural, civic, and health and wellness, or other activities. [...]

PUBLIC ACCESS FINDING H

5/31 version: Public Access Finding h – Public access is not equally or evenly distributed around the Bay, nor are all public access areas of the same quality, due to varying levels of resources for improvements, maintenance, and amenities. Often public access areas near identified vulnerable or disadvantaged communities are difficult to access, poorly maintained, and infrequently improved. This can perpetuate cycles of avoidance, underuse, neglect, and in extreme cases, loss of public access to the Bay. However, there remains a need to better understand where these gaps and inconsistencies are located regionally in order to address them and provide more equitable and convenient public access.

Comments:

- After first sentence, **add:** “This uneven access around the Bay is also partially the result of requiring on-site public access as development has been clustered in certain areas around the Bay, leaving others few public access opportunities.”
- At end of finding, **add:** “Special Area Plans provide opportunities to consider how a plan-based approach to providing public access could result in a more equitable distribution of public access.”

PUBLIC ACCESS POLICY 2

5/31 version: Public Access Policy 2 – [...]In these cases, in lieu access at another location preferably near the project should be provided. If in lieu public access is required and cannot be provided near the project site, the required access should be located preferably near identified vulnerable or disadvantaged communities lacking well-maintained and convenient public access in order to foster more equitable public access around the Bay Area.

Comments:

- At the end, **add:** “Where appropriate, Special Area Plans shall encourage plan-based public access to increase public access in or near identified vulnerable or disadvantaged communities around the Bay.”

PUBLIC ACCESS POLICY 8

5/31 version: Public Access Policy 8 – Public access improvements provided as a condition of any approval should be consistent with the project and the physical environment, including protection of Bay natural resources, such as aquatic life, wildlife and plant communities, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for persons with disabilities, economic constraints, and/or cultural (including language) barriers to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs, including using appropriate languages or culturally-relevant icon-based signage.

Comments:

- At the end, add: “Public access improvements in urban areas should be encouraged to include flexible spaces that can support a variety of programs and recreational uses, including accessory commercial activities and interactive designs with adjacent developments, in order to promote inclusive public access spaces.”

PUBLIC ACCESS POLICY 8 (CONTINUED)

Staff Preference:

Public access improvements provided as a condition of any approval should be consistent with the project and the physical environment, including protection of Bay natural resources, such as aquatic life, wildlife and plant communities, and provide for the public's safety and convenience. The improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for persons with disabilities, for people of all income levels, and/or for people of all cultures to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs, including using appropriate languages or culturally-relevant icon-based signage.

SHORELINE PROTECTION POLICY 1

5/31 version: Shoreline Protection Policy 1 - New shoreline protection projects and the maintenance or reconstruction of existing projects and uses should be authorized if: [...] and (f) adverse impacts to adjacent or nearby areas, such as increased flooding or accelerated erosion, are avoided or minimized. If such impacts cannot be avoided or minimized, measures to compensate should be required. [...]

Comments:

New shoreline protection projects and the maintenance or reconstruction of existing projects and uses should be authorized if...(f) adverse impacts on shoreline public access at ~~to~~ adjacent or nearby areas, such as increased flooding or accelerated erosion, are avoided or minimized. ~~If such impacts cannot be avoided or minimized, measures to compensate should be required.~~

MITIGATION FINDING H

5/31 version: Mitigation Finding h - There are a multitude of benefits created by meaningfully involving underrepresented communities in mitigation projects including new approaches and perspectives, fostering new stewardship, community empowerment, and the creation of new cross-cultural partnerships.

Comments: Language is unclear.

Staff Preference:

Add at the **end**: “Specifically, there are opportunities to involve communities in project planning, implementation, monitoring, on-site education programs, and other public programming at the site.”

MITIGATION POLICY 3

5/31 version: Mitigation Policy 3 - For major projects that require mitigation and appropriate minor projects that require mitigation, nearby communities should be meaningfully involved in an equitable and culturally-relevant manner. In particular, underrepresented communities should be involved. This should include consultation with the community in the identification and prioritization of potential projects, and in the monitoring and programming of a mitigation site. If previous outreach and engagement was insufficient, further outreach and engagement should be conducted prior to Commission action.

Comments:

- Define or delete: “meaningful involvement”, “insufficient”, and “appropriate minor projects”
- Language is unclear.

MITIGATION POLICY 3 (CONTINUED)

Staff Preference:

- For major ~~projects that require mitigation~~ and appropriate minor projects that require compensatory mitigation, ~~nearby~~ communities surrounding the project and the compensatory mitigation site should be meaningfully involved in an equitable and culturally-relevant manner. In particular, underrepresented communities should be involved. This should include consultation with the community in the identification and prioritization of potential projects, and in the monitoring and programming of a mitigation site. If previous outreach and engagement efforts were insufficient did not reflect the scale or scope of the project, further outreach and engagement should be conducted prior to Commission action. (change in all other places)

GENERAL COMMENTS

- Questions and uncertainty around implementation
- Community involvement
 - Emphasis on trust-building, CBOs as middlemen, requests for guidelines and criteria
- Need to collaborate with local jurisdictions
- Cannot continue with business as usual
- Full adoption and enforcement
- Guiding Principles and policies need to be consistent
- Local hire as form of community involvement
- Ensure visual Bay access and minimize adverse impacts on wildlife
- Policies could delay and add costs to critical shoreline protection projects

COMMENTS ON TOPICS OUTSIDE THE SCOPE

- Equity for individuals inhabiting vessels
- Adding other sections of the Bay Plan to this amendment (e.g. Climate Change)

THANK YOU



clesi.bennett@bccdc.ca.gov



www.bccdc.ca.gov